

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

YURIY ABROSIMOV, et al.,

2:09-CV-1261 JCM (GWF)

Plaintiffs,

V.

SERGEY RYSHKOFF'S MOSCOW ICE CIRCUS, et al.,

Defendants.

ORDER

Presently before the court is plaintiffs' motion for default judgment against the remaining, non-answering defendants: Sergey Ryshkoff, Sergey Kondratov, Ice Show Corporation, and Sergey Ryshkoff's Moscow Ice Circus. (Doc. #51).

Pursuant to Federal Rule of Civil Procedure 55(a) “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party’s default.” Federal Rule of Civil Procedure 55(b)(2) provides that a court may enter a default judgment after the party seeking default applies to the clerk of the court as required by subsection (a) of this rule. However, prior to obtaining such relief, the plaintiff is required to demonstrate that the relevant defendant has been properly served. See *Mason v. Genisco Tech. Corp.*, 960 F.2d 849, 851 (9th Cir. 1992) (“A person is not bound by a judgment in a litigation to which he or she has not been made a party by service of process.”).

Here, the court granted plaintiffs permission to serve the relevant defendants by publication. (Doc. #31). However, plaintiffs have filed evidence of service only as to two of the remaining, non-

1 answering defendants. (See doc #38) (as to defendant Kondratov); (see also doc. #41) (as to
2 defendant Ryshkoff). To date, plaintiffs have failed to demonstrate that defendants Ice Show
3 Corporation and Sergey Ryshkoff's Moscow Ice Circus have been properly served.

4 Nonetheless, the clerk of the court entered default as to all four remaining, non-answering
5 defendants on June 8, 2011 (doc. #50), upon plaintiffs' motion for entry of clerk's default (doc. #49).
6 Because the plaintiffs have failed to provide evidence that Ice Show Corporation and Sergey
7 Ryshkoff's Moscow Ice Circus have been properly served, the entry of default (doc. #50) is hereby
8 vacated, and the motion for default judgment is denied as to those defendants. However, the court
9 finds that defendants Kondratov and Ryshkoff have been properly served. Whereas, to date,
10 Kondratov and Ryshkoff have not submitted responsive pleadings, entry of default judgment against
11 them was proper, and the motion for default judgment is granted.

12 || Accordingly,

13 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the clerk's entry of default
14 (doc. #50) is VACATED as to defendants Ice Show Corporation and Sergey Ryshkoff's Moscow
15 Ice Circus;

IT IS FURTHER ORDERED that plaintiffs' motion for default judgment (doc. #51) is hereby GRANTED as to defendants Sergey Ryshkoff and Sergey Kondratov. Plaintiffs shall prepare and submit an appropriate judgment to the court for review and signature.

IT IS FURTHER ORDERED that plaintiffs' motion for default judgment (doc. #51) is hereby DENIED as to defendants Ice Show Corporation and Sergey Ryshkoff's Moscow Ice Circus.

21 DATED this 30th day of June, 2011.

UNITED STATES DISTRICT JUDGE